

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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DEREK BRANTLEY, II,

Petitioner,

vs.

MARGARET BRADSHAW, Warden

Respondent.  
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CASE NO. 1:11-CV-00851

OPINION & ORDER  
[Resolving Doc. No. [1](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On April 29, 2011, Petitioner Derek Brantley, II, filed a petition for a writ of habeas corpus under [28 U.S.C. § 2254](#). The matter was referred to Magistrate Judge Greg White pursuant to Local Rule 72.2. On May 29, 2012, Magistrate Judge White issued a Report and Recommendation recommending that the Court dismiss the petition because Brantley has procedurally defaulted claims 1, 3, and 4, and ground 2 fails on the merits. [Doc. [13](#).]

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a Report and Recommendation within fourteen days of service. *Id.*; [Fed. R. Civ. P. 72\(b\)\(2\)](#). Failure to object within this time waives a party's right to appeal the district court's judgment. [Thomas v. Arn](#), 474 U.S. 140, 145 (1985); [United States v. Walters](#), 638 F.2d 947, 949-50 (6th Cir. 1981). Absent objection, a district court

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may adopt the magistrate judge's report without review. [See Thomas, 474 U.S. at 149.](#)

In this case, Petitioner Brantley has not objected to the Report and Recommendation. Moreover, having conducted its own review of the record and the parties' briefs, the Court agrees with the recommendation of Magistrate Judge White that the petition should be dismissed. Brantley procedurally defaulted three claims ("refusal to have guilty pleas withdrawn"; "forfeiture wasn't done by procedure"; and "Costs and fines")—and he has not shown cause and prejudice sufficient to overcome that default. And as to his remaining ineffective assistance claim, Brantley has not demonstrated that his counsel's performance was deficient or that it prejudiced him.

Accordingly, the Court **ADOPTS** in whole Magistrate Judge White's Report and Recommendation and **DENIES** Young's petition for a writ of habeas corpus. Further, the Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith, and no basis exists upon which to issue a certificate of appealability. [28 U.S.C. § 2253\(c\); Fed. R. App. P. 22\(b\).](#)

IT IS SO ORDERED.

Dated: August 7, 2011

s/ *James S. Gwin*  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE